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Assembly California Legislature



TED W. LIEU
FIFTY-THIRD ASSEMBLY DISTRICT

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PROTECTION, CHAIR

April 26, 2010

The Honorable Richard C. Shelby
304 Russell Senate Office Building
Washington D.C., 20510

Dear Senator Shelby:

I am writing regarding the Restoring American Financial Stability Act of 2010. Specifically, I urge that you ensure Subtitle D of the Act—which gives states the authority to take action against *all* banks, not just state-chartered banks—remains in the Act. Two of the principal reasons Wall Street firms got away with fleecing Main Street Californians were lack of a strong regulatory structure and lack of enforcement. Subtitle D of the Act ensures that never again will we have inadequate enforcement against Wall Street firms.

History showed us that depending solely on federal regulators failed us during the mortgage crisis. If California had the independent authority to go after Wall Street firms for fraud, conflict of interest, failure to disclose, unfair competition, and numerous other violations, then it is clear the mortgage crisis would have been mitigated. Instead, the states were handcuffed and dependent on federal regulators who sat on their hands.

Subtitle D, Section 1041(a)(2) "GREATER PROTECTION UNDER STATE LAW" states that "[A] statute, regulation, order, or interpretation in effect in any State is not inconsistent with the provisions of this title if the protection that such statute, regulation, order, or interpretation affords to consumers is greater than the protection provided under this title." This provision is important because California has, in many respects, afforded greater protections to consumers.

For example, the California Subprime Mortgage Reform Act that I authored explicitly bans the predatory practice of steering, puts strict caps on prepayment penalties, and imposes a statutory fiduciary duty on mortgage brokers and banks acting as brokers. It would be detrimental to our state if this important California law was preempted.

Subtitle D, Section 1042(a)(1) "PRESERVATION OF ENFORCEMENT POWERS OF STATES" states that "The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State . . . in any district court of the United States in that State or in State court having jurisdiction over the defendant, to enforce provisions

of this title or regulations issued thereunder and to secure remedies under provisions of this title or remedies otherwise provided under other law.” This powerful provision allows states the independent authority to take enforcement actions against Wall Street firms.

Federal regulators helped enable the crisis by turning a blind eye to outrageous Wall Street practices. One reason this may have happened—and may continue to happen in the future—is because ultimately it is the current Administration who appoints the head of many of the federal regulatory agencies. For example, the SEC Chairman during much of this crisis—Christopher Cox—was appointed by former President Bush. Both President Bush and Chairman Cox generally opposed strong regulation of Wall Street.

Under President Obama, we have much better leadership in the area of consumer protection. However, a different Administration in seven years may have a different view towards Wall Street. The effectiveness of regulating Wall Street should not depend on which Administration happens to be in office. Giving state attorney generals the ability to enforce the law against Wall Street firms provides checks and balances that were missing during our financial crisis.

Thank you for your consideration of these important issues.

Sincerely,

A handwritten signature in cursive script that reads "Ted W. Lieu".

Ted W. Lieu
Chair, Assembly Select Committee on Consumer Financial Protection